

FILED
Clerk
District Court

MAR 22 2006

For The Northern Mariana Islands
By _____
(Deputy Clerk)

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9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE NORTHERN MARIANA ISLANDS**

12 **ALAN STUART MARKOFF, D.D.S. dba**
13 **TOOTHWORKS and OPEN CHOICE,**

14 **Plaintiff,**

15 **vs.**

16 **TODD KEITH JOHNSON, D.D.S.,**

17 **Defendant.**

18 **) CIVIL ACTION NO. CV-05-0035**

19 **) AFFIDAVIT OF GARAN LYLES**
20 **) IN SUPPORT OF MOTION TO STAY**

21 **) Date : Munson, Chief Judge**

22 **) Time : April 13, 2006**

23 **) Judge : 9:00 a.m.**
24 **)**
25 **)**

CAUSE NO. 2005-56947

TODD KEITH JOHNSON, D.D.S.

Plaintiff,

vs.

ALAN STUART MARKOFF, DDS, INC.
 ALAN STUART MARKOFF, AND
 ALAN STUART MARKOFF, D.D.S.
 d/b/a TOOTHWORKS-OPEN CHOICE

Defendants,

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

281st JUDICIAL DISTRICTAFFIDAVIT

State of Texas §

County of Harris §

Before me the undersigned notary, on this day, personally appeared Garan Lyles, a person whose identity is known to me. After I administered an oath to him, upon his oath he said:

1. My name is Garan Lyles. I am capable of making this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.
2. It was impractical to secure the services of citations on the Defendants, Alan Stuart Markoff, DDS, Inc., Alan Stuart Markoff, D.D.S. d/b/a Toothworks-Open Choice, and Alan Stuart Markoff, in the above numbered and entitled cause, by delivering to said Defendants, in person, a true copy of the citation with the date of delivery endorsed thereon with a copy of the Petition attached thereto, because they absent or secrete themselves or otherwise evade such service each time I have attempted to effect such service on them in this cause.
3. The said Defendants' usual place of abode or (the place where the said Defendant can probably be found) is 31 Stillforest, Houston, Texas 77024.
4. I have attempted service on the said Alan Stuart Markoff by attempting to deliver to him, in person, a true copy of the Citation with the date of delivery endorsed thereon with a copy of the Petition attached thereto at the said above described

location on the following date and at the indicated times but I have not been successful:

1. On my first attempt to serve Mr. Markoff, I saw a man and woman walking their dogs and I asked them for directions to the address which they provided. It turned out it was actually their house and it was Mr. Markoff and his wife but they never answered the door after this initial contact. The reason why I know it was them because they were the same dogs that were barking in the house.
1. On October 8, 2005 at 9:28 a.m. there was no answer but cars in the driveway. I could hear people in the house but no one would answer the door.
2. On October 8, 2005 at 10:30 a.m. there was no answer and the dogs were barking.

Every statement in this, my affidavit, is true and correct.

Further affiant sayeth not.


Garan Lyles, Affiant

SWORN TO AND SUBSCRIBED before me on the 21st day of March,
2006.

My commission expires:

7/12/08


Notary Public, State of Texas

Notary's printed name:

Eileen Franco Galan

